FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.3134 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.K.K.Waghmare for petitioner.
Mr.K.J.Presswala i/by M/s.Mulla & Mulla for res.Nos.1 & 2.

CORAM : H.L.GOKHALE &
J.H.BHATIA, JJ.

DATED : 3rd July 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. This petition seeks to challenge the decision dated 16th February 2004 of the 1st and 2nd respondents whereby respondent No.5 is promoted to the post of Office Superintendent. The case of the petitioner is that instead of promoting respondent No.5, the petitioner should have been promoted.

3. Now if we see the facts it is clear that whereas the petitioner joined as a Junior Clerk in the pay scale of Rs.115-215 on 15th July 1971, respondent No.5 joined some four and half months before him i.e. on 2nd March 1971 as a Junior Typist in the same pay scale. Both of them were promoted to the grade of the Senior Clerk i.e. Rs.335-680 on 1st October 1988. Thereafter respondent No.5 was promoted as the Accountant on 23rd July 1993 in the pay scale of Rs.1500-2600 whereas the petitioner was promoted three days later as the Head Clerk in the same pay scale. It is thereafter that now respondent No.5 has been promoted to the post of Office Superintendent.

4. Mr.Waghmare appearing for the petitioner tried to contend that respondent No.5 was appointed

as the Typist whereas the petitioner was appointed as the Clerk and that her promotional channel will be different.

5. Mr.Presswala appearing for respondent Nos.1 and 2 has pointed out that respondent No.5 was all throughout in the clerical cadre and she had never opted for that cadre. It is, therefore, in that cadre based on her seniority that she has been given the promotion as and when it became due to her. It is also material to note that respondent No.5 got three promotions from time to time all these years which were never challenged by the petitioner, though he made a belated representation and subsequently the dispute appears to have been taken to the Labour Court wherein it has been dismissed for non-prosecution.

6. We do not find any merit in the petition. Respondent No.5 is rightly given the promotions on the basis of her seniority.

7. Petition is dismissed.

(H.L.GOKHALE, J.)

(J.H.BHATIA, J.)